



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CARE ONE, LLC,

Plaintiff,

v.

ADINA STRAUS, MOSHAEL STRAUS,
JEFFREY RUBIN, BETHIA STRAUS, and the
JOEL JAFFE FAMILY TRUST,

Defendants

JEFFREY RUBIN and ADINA STRAUS,

Counterclaim-Plaintiffs/ Third-
Party Plaintiffs,

v.

CARE ONE, LLC, DANIEL STRAUS, DES
HOLDING CO., INC., and DES-C 2009 GRAT
and DES 2009 GST TRUST,

Counterclaim-Defendants/ Third-
Party Defendants.

Civil Action No.

2:15-cv-06375-SRC-LDW

Honorable Stanley R. Chesler, U.S.D.J.

Honorable Leda Dunn Wettre, U.S.M.J.

**CONSENT ORDER OF DISMISSAL WITH
AND WITHOUT PREJUDICE**

THIS MATTER having been brought to the Court jointly by the undersigned counsel for plaintiffs/counterclaim-defendants/third-party defendants, Care One, LLC, Daniel Straus, DES Holding Co., Inc., and DES-C 2009 GRAT and DES 2009 GST Trust (collectively the “**Care One Parties**”), and defendants/counterclaim-plaintiffs/third-party plaintiffs, Adina Straus (“**Adina**”) and Jeffrey Rubin (“**Rubin**”), for a Consent Order (1) dismissing Count Two of Care One, LLC’s First Amended Complaint (Equitable Relief under the Employee Retirement Income Security Act of 1974 (ERISA)) (the “Federal Law Claim”) with prejudice, and (2) dismissing all other counts asserted in Care One, LLC’s First Amended Complaint (ECF No. 4), all counts in

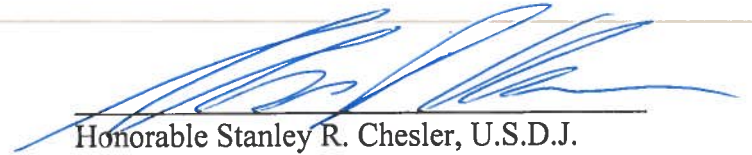
Rubin's Amended Counterclaims (ECF No. 132), and all counts in Adina's First Amended Counterclaim and First Amended Third-Party Complaint (ECF No. 131) (collectively, the "State Law Claims") without prejudice; and it appearing the Federal Law Claim stated in this action ("the "Federal Court Action") has been rendered moot; and it further appearing that on January 22, 2019, the Care One Parties filed a separate action in the Superior Court of New Jersey, Chancery Division (General Equity), Bergen County, entitled Care One, LLC, et al. v. Adina Straus, et al., Docket No. BER-C-26-19 (the "State Court Action") concerning the same subject matter as the State Law Claims in the Federal Court Action; and the Court having noted the consent hereto of counsel for the respective parties; and good cause having been shown therefor;

IT IS on this 5th day of February 2019, **ORDERED** as follows:

1. Having been rendered moot, the Federal Law Claim is hereby dismissed, with prejudice, without any adjudication on the merits, and without costs being assessed against any party.
2. All State Law Claims are hereby dismissed, without prejudice, without any adjudication on the merits, and without costs being assessed against any party.
3. All State Law Claims, and all defenses and objections thereto, timely asserted and filed in the Federal Court Action may be asserted and filed in the State Court Action, in which they will likewise be deemed to be timely asserted and filed and shall not be barred or limited by any untimeliness defense, including statute of limitations and laches.
4. All discovery elicited, adduced and/or produced in the Federal Court Action, including, but not limited to, documents and other tangible things produced by the parties and/or by nonparties, answers to interrogatories, and deposition testimony (the "Federal Court Discovery Materials"), shall be deemed to have been produced, and may be utilized by the

parties, in the State Court Action, subject to the same restrictions set forth in the Discovery Confidentiality Order and Agreement entered on May 9, 2016 in the Federal Court Action, and subject to the parties' respective rights to advance in the State Court Action any objections as to the authenticity, relevance and admissibility of any and all Federal Court Discovery Materials, which rights are expressly reserved.

5. The parties agree that all deadlines set forth in any discovery and/or case management Order entered in the Federal Court Action are null and void and shall have no force or effect in the State Court Action.




Honorable Stanley R. Chesler, U.S.D.J.

IT IS HEREBY STIPULATED that the parties consent to the form and entry of the within Order.

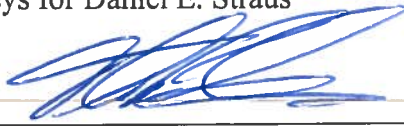
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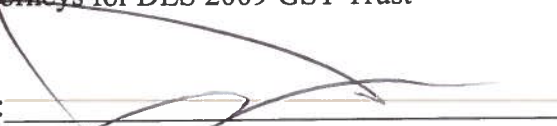
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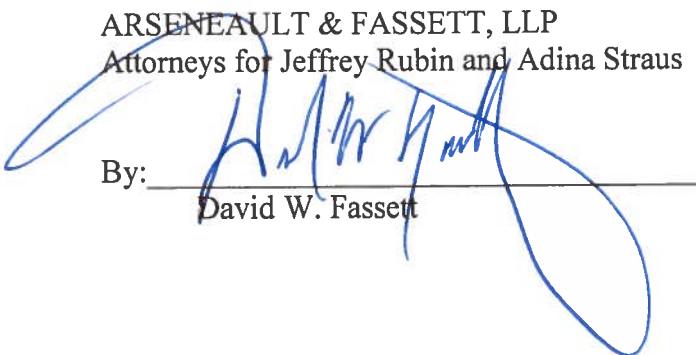
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